



CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Friday, the 14th April, 1950.

OFFICIAL REPORT

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CONSTITUENT ASSEMBLY OF PAKISTAN

Friday, the 14th April, 1950

The Constituent Assembly of Pakistan met in the Assembly Chamber at Ten of the Clock, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

MEMBERS SWORN

1. Sufi Abdul Hamid Khan (Punjab : Muslim).
2. Chaudhri Ali Akbar Khan (Punjab : Muslim).
3. Sheikh Sadiq Hasan (Punjab : Muslim).
4. Mr. B. L. Rallia Ram (Punjab : General).

THE GOVERNMENT OF INDIA (FIFTH AMENDMENT) BILL—*Concl'd.*

Mr. President : Further consideration of the following motion moved by Dr. Mahmud Husain on Wednesday, the 12th April, 1950 :

“ That the Bill further to amend the Government of India Act, 1935 (Amendment to the Fifth Schedule) be taken into consideration.”

Sardar Asadullah Jan Khan (N.-W. F. P. : Muslim) : Mr. President, Sir, the other day I was saying that after the subjugation of the Greeks when Lysander, nominated 10 members to the Council of Athens, the historians described this act of his as Tyranny of the Thirty. In Greece the word “tyranny” meant something quite different from what we understand by it today.

Through you, Sir, I present this Persian verse to the Honourable Dr. Mahmud Husain :

*Taza khwahi dastan gar dagh-hai seenah ra,
Gahe gahe baz khwan ein qissa-e-parina ra.*

If you wish to keep anew in your memory the sorrows of the past,
Do read this old tale now and then :

If at all he takes some lesson from this verse it would be very fortunate for me. And, if he takes it ill, it is very unfortunate. I do not want to say anything more.

Sir, it would not be correct to say that the events of history are not governed by the law of causation and do not follow any set pattern. As a matter of fact they result from the operation of the laws of equilibrium and moral consequences or you may call it the nemesis of history. A famous historian has rightly said that “man is the same in all ages and the history of man is one in all ages, because the basis of human nature has been and will continue to be the same in all times and all climes.”

Mr. President ! Sir, how full of truth is the saying of M. Augustus, the French thinker, that when a nation borrows a concept from another nation it always adapts it according to its own mode of thinking ; and the resultant conception is quite different in its form and content from the original one. He cites Islam as an illustration. The form of Islam in Hedjaz was its original form.

[Sardar Asadullah Jan Khan]

It changed a little when it came to Iraq and in a neighbouring country several deities sprang up in it. In Afghanistan every Pir attained the position of a demi-god and in India it began to harbour millions of gods.

Mr. President ! democracy is translated as "Jamhuriat". This is an Arabic word meaning a sand dune, denoting thereby immensity of number. But here the situation is quite different. Six or seven lakh refugees have shrunk into 60 or 70 members of this Constituent Assembly, who in their turn are making a gift of their powers to the Government. I cannot term it as "democracy". It is merely a freak of our political temperament.

It is an undeniable truth that democracy was successful only among the Anglo-Saxon races. Its failure in the rest of the world is a historical truth. In the United States of North America the majority of the population is Anglo-Saxon. That is why democracy is progressing there by leaps and bounds. But in South America, its neighbouring territory where most of the people belong to the Latin races, an endless struggle is going on between democracy and dictatorship. The history of French and English provinces of Canada is also a further testimony of the truth of my argument. Even in this twentieth century Germany gave birth to Hitler, Italy to Mussolini and Spain to Franco.

Mr. President ! there is no doubt that this Constituent Assembly is a sovereign body. The word "sovereign" makes it crystal clear that this body repudiates any sort of subordination. Undoubtedly, it can override and overrule its own decision, but a frequent misapplication of this power would discredit it as well as the Government.

The last reason of my opposition to this Bill is that such legislation will make us to break with democracy and will take us back to the days of autocracy. I shall quote a few instances from history in support of my argument.

Through you, Sir, I would like to bring to the notice of this Honourable House, the great truth expressed by A. Thiers in his book "The History of the Consulate and the Empire of France under Napoleon". He says that if a state has remained a republic for a long time, it takes long, may be some generations, to convert it into a monarchy. In the same way if a nation remains under a monarchy for a long time it adapts itself to a democratic system of government after several generations. The author cites two illustrations each of the republican states which were sought to be converted into monarchies and *vice versa*. He says that Rome and Florence were republics for centuries. It was the Caesars who put an end to the Roman republic and Julius Caesar, Augustus and Tiberius had to endeavour for half a century to achieve this object. Then the Romans became familiar to monarchy. Same was the case of the Medici dynasty which took more than half a century in converting the Florentine republic into a monarchy.

Then Thier refers to England and France, which were both impregnated with monarchical traditions. Both of them became republics no doubt but only for a few years. They first ended with Cromwell and the other with Napoleon. Also the British delegated such authority to Cromwell which was never enjoyed by the Stuarts and the French gave Napoleon such powers which the Caput Dynasty had never exercised.

Mr. M. H. Gazder (Sind : Muslim) : How is this philosophy relevant to this Bill ?

Mr. President : Let us see. Go on.

Sardar Asadullah Jan Khan : Sir, it is undeniable that democracy was never threatened from outside. It was always torpedoed from within. Democracy is of no use if it fails to achieve its purpose, that is the setting up of a responsible government. The world shall never believe in our pronouncements, arguments and objects, unless we apply them to our national life, and impregnate our institutions and laws and our collective mode of life with them. Thousands of years ago, Mazdak preached socialism in Iran. He asked those of his followers who had more than one wife to give the same to their unmarried fellows. Those people followed his behest. Hazrat Abuzar Ghaffari was also socialist minded. He was once seen holding the nose-string of his camel in his hand and carrying the saddle on his back. When the people asked the reason for this he replied that the camel had carried him and the saddle for a long distance and was entitled to rest. That was why he was walking with the saddle on his back.

Mr. President : How is all this relevant to the present issue? Please make that out.

Sardar Asadullah Jan Khan : I want to show, Sir, that in order to be true democrats, democracy ought to rule the mode of our collective life.

Communist Russia killed 4 million Kulaks, simply to make socialism dominant in the life of the Russians. The Holy Inquisition took the toll of millions of lives to make catholicism the dominant force in Christendom.

Mr. President : How is all that relevant to this issue? You have got to show that; otherwise I cannot allow you to go on in this strain.

Sardar Asadullah Jan Khan : All right, Sir. I shall now come to the subject. We are accustomed to live under monarchy. To make democracy predominant in our lives we should not move an inch hither or thither from the democratic ways of life. If we do so, the democracy will be no more. The Moghuls were autocrats and their autocratic tendencies are still prevalent among the Muslims and I fear that it might lead us to autocracy. There is a saying "We learn from history that we never learn from history". Is it not true for all the Islamic countries?

I, therefore, say, Sir, that we can very easily solve this problem. Nobody can build a house if he does not take into account the law of gravitation. All the wranglers in the world cannot make two and two three or five in violation of the mathematical laws.

Mr. President : You are now speaking in abstract. You have to say something about this Bill.

Sardar Asadullah Jan Khan : Now the Assembly is going to infringe these high principles.

Yes, Sir, now I shall say something about the Bill moved by Dr. Mahmud Husain. I want to tell him that the Bill moved by him is inconsistent with the democratic practice. While drafting a Bill he should keep the principles of democracy in view. If he does not do this we shall succumb to the autocratic tendencies which are already strong in us. We had made a very simple declaration that ours would be a democratic State. But the mere declaration is not enough, it has to be put into practice. If the Constituent Assembly has delegated some powers to the Government for a year or two.....

Mr. President : Let the government alone. We are not concerned with the Government now. Say something about this Bill.

Sardar Asadullah Jan Khan : All right, Sir, I only say this that we should not do a thing which is repugnant to our conscience.

Shri Sris Chandra Chattopadhyaya (East Bengal : General) : Mr. President, I oppose this Bill. It is against all principles of democracy. It denies the right of the citizen to elect their own representatives. This House is a sovereign body; as such this House ought not to take any steps which will lower the prestige of this House, which will lower this House in the estimation of the people. The matter proposed to be adopted is practically a matter of nomination. Even the Government of India Act of 1935 gave up nomination so far as the House of Representatives of the people was concerned. Therefore if you adopt this sort of procedure then as someone said : "one more validating act and the whole prestige of the House would be gone" will be applicable against you.

Dr. Mahmud Husain (East Bengal : Muslim) : How ?

Shri Sris Chandra Chattopadhyaya : Because you are usurping the right of the citizens of Pakistan. The other day you adopted this method to elect members to the Constituent Assembly and today you are adopting the same method for Provincial Assembly and the third day you will adopt the same method for East Bengal, where there are five vacancies in General seats. They are vacant for the last two and a half years since the foundation of Pakistan. For these five General seats, seats reserved for the minorities, tomorrow you will come and say "Let us nominate those five minority seats. Have you consulted the refugees who are to be nominated? If not, then what is this? You can easily hold election. You say there are six or seven lakhs of refugees in Sind. The number is not much; even in my own district there are 42 lakhs of people and elections are held there. You can arrange for elections within two months. You must have a register of refugees. There is the list; you may call it the electoral roll. You can divide it either in seven constituencies if you so desire or make one constituency for all. First you fix as to how many persons you want to return or allocate the seats in the manner you like. You can decide that and then arrange for election. Under the present circumstances you yourself do not know what is the number of refugees. You say their number is six or seven lakhs. I want to ask what is the difficulty in holding election? And now you want to nominate. The real representatives of the refugees may not come here by this method. You may nominate some upper class people or capitalists but the fact is that the majority of the refugees come from the middle class and lower class. That is the difficulty. Therefore do not adopt this method. Louis XIV used to say "I am the state". Yes, you are the sovereign body but do not behave like him. I know the despotic kings used to carry out their behests at the point of bayonets, similarly you want to carry out your objects at the point of brute majority; this is tyranny of majority. Your method is against democracy; against all canons of law you would do it, because you have got the majority. I beseech you not to follow this procedure, withdraw this Bill and hold elections. It would not take more than two months if there is a register, divide it and finish the elections. With these words I oppose the Bill.

Mr. Abdul Waheed Khan (Punjab ; Muslim) : Sir, I will say only a few words in support of this motion. A year or more has elapsed since those refugees, who having migrated from different parts of India, have settled in the Province of Sind, and who number about 7 lakhs, according to official statistics, have continuously and persistently, been demanding proportionate representation in the Assembly, with a view to get relief for their manifold miseries and see their grievances redressed. They wish that their representatives place their difficulties before the Government and Assembly and get them remedied.

Sir, these 7 lakh Musalmans are mostly the same people who, for ten years before the Partition, offered glorious sacrifices in the struggle for achieving Pakistan and keeping aloft the Muslim League flag. I am sure that when the

history of Pakistan is written, the services of these men will be written in letters of gold. When Pakistan came into existence they made it their homeland, because the conditions in India compelled them to take refuge in this country. In spite of the solicitude of the Central Government the sincere efforts of its Ministers and the sympathetic attitude of Sind Ministers these refugees, on their arrival in Pakistan, had to face difficulties and suffer untold hardships owing to some unavoidable circumstances and the unsympathetic attitude of some of the local authorities. Their demand, at that time, was therefore natural and justifiable as they thought that their sufferings might perhaps be alleviated if their representatives are soon able to participate in the deliberation of the Assembly.

I am awfully surprised, as those refugees must have been, to see the gentlemen whose speeches are always replete with references to democracy and public welfare, moving amendments in order to defeat a proposal which has been duly placed before this representative Assembly to meet the refugee demand.

These members have been attending various meetings of this House for the last one and a half year and have made long speeches during the Budget session and on other occasions, but search as you would, the newspaper columns or the proceedings of the Assembly, you would not find even the slightest reference to the rights and privileges of those seven lakh people who have come from almost all parts of India, particularly the U. P., Bihar, Delhi and East Punjab, etc., and are suffering great hardships in Sind. Not a single good word was ever said for them in this representative Assembly or legislature. So far as I know, nothing by way of adjournment motion or cut motion was ever moved by them asking for the preparation of any electoral roll with a view to hold elections. There are many other persons who have been sitting here for the last two years or more, but if you go through the column of the papers, you will find that they never pleaded the cause of these refugees. They should have got the electoral rolls prepared. But now when the House, seeing that early elections are not possible, has considered it necessary to adopt this easiest possible course, an amendment has been moved to postpone the matter till the next elections. Its result would be that the representatives of the refugees will not be taken in the Sind Assembly for two or three years to come, by which time their difficulties will certainly be multiplied to such an extent that even representation will not help them. This is an indication of their sympathy with the refugees "What fine friends have we got". If a man bitten by a snake is about to die, and his life can well be saved at that critical juncture by means of administering some sort of medicine, Mian Iftikharuddin, instead of doing so, would like to see the patient keep on lingering till he manages to obtain an antidote from Iraq. He will never agree to administer any other medicine except the Iraqi antidote (*Laughter*).

Further if one is dying of thirst, Mr. Chattopadhyaya would insist on getting Ganga jali (water from the Ganges) for him. He would rather see the man dying of thirst than give him ordinary water (*laughter*). However, this is such a reality and such a patent fact that there can be no two opinions about it. Therefore we cannot appreciate such a proposal which would inevitable result in delaying the refugee representation for one year or more thus aggravating their troubles. But, however, people have some limitations and complexes. So far as Mian Iftikharuddin is concerned, if the House is aware of his limitations, it would sympathise with him because his condition is pitiable. Unfortunately, while studying the works of Allama Iqbal, the very first couplet which he came across was the following one :

*W' aiz suboot lae jo mai ke jawaz main
Iqbal ko yeh zid hai keh pina bhi chorde.
If the preacher proves that drinking is lawful,
Iqbal would give up drinking at all.*

What was more unfortunate, perhaps he did not see the original Urdu couplet, but read its English translation.

[Mr. Abdul Waheed Khan]

Iqbal had aimed at expressing a novel idea and had meant quite a different thing but it often happens that when Urdu couplet is translated into English its purport is changed. Iqbal's works are being translated into English and the Government should see that the real purport of his verses is not changed.

Here is a simple couplet of Mir—

*Ham huay, tum huay, keh Mir huay,
Unki zulfon ke sab aseer huay.
Be it you or I or Mir,
All of us have been enslaved by her tresses.*

Someone translated it into English:

"We, you, and all rich people were sent to jail, handcuffed with the chain of beloved's hair." (*Laughter.*) I do not know what sort of translation Mian Sahib happened to come across. Before he read the couplet, he used to say his prayers five times a day and kept a beard also. But since he misunderstood this couplet of Iqbal he first of all shaved his beard, then he began to pray twice a day instead of five times and that too with his face towards the north, rather than west. (*Laughter.*) Since then he has made it a point to oppose everything which comes from the other side. If the Government had said that it had full sympathy with the refugees but as there could be no elections at that stage it would give them representation in the next elections, I am sure Mian Sahib would at once have placed the same proposal before the House as has now been moved by the Government. I am also sure that if a year hence the Government proposes to repeal the Public Safety Ordinance he will certainly oppose it by saying that the Act is urgently needed in view of the present international situation. (*Applause.*)

However, Sir, through you I want to impress upon him that slogans will not do now, as he himself knows. The world is now face to face with grim realities. I hope he will revise his attitude at this juncture when the refugee question, the question of their fate, is before the House, and would forbear to play with the feelings and sentiments of at least the poor refugees. (*Applause.*)

Sir, the other young Member from the Punjab—Sardar Shaukat Hyat Khan—has also moved an amendment perhaps in the favour of Opposition. Sardar Sahib who has made it a point with him to follow the lead of everyone without ever caring to look for the real leader has entertained us with a very interesting proposition. He says that as the East Punjab M.L.A.'s were co-opted by the Punjab Assembly, therefore the Sind Assembly should also co-opt without regard to their number, all these refugees in Sind who were the Members of any Indian Legislature prior to Partition. My young friend in the frenzy of opposition has forgotten the fact that the 40 representatives who were taken in the Punjab Assembly brought with them 40 lakhs of electors. But it is not the case here. There are thousands of refugees whose representatives have settled in East Bengal, similarly there are several members whose voters have settled elsewhere. This amendment appears to be ludicrous. Unfortunately Sardar Sahib is not present in the Chamber, but as my words may perhaps reach him, I would suggest to him not to harp upon the same tune on every occasion as it makes a man a butt of ridicule. He is like the man who had learnt from somewhere that this sentence "May god grant you fortitude and a better substitute" sufficed for condolence everywhere. He had heard someone uttering this thing while condoling the death of a child. Now like Sardar Sahib's East Punjab formula he made it a catch phrase. Once he went to condole the death of a certain person's father and said in the presence of the deceased's wife and son "May God grant you fortitude" and to apply Sardar Sahib's formula added immediately after "and a better substitute". (*Laughter.*) I do not know how the mother and the son took this condolence, but this much

I know that the people outside the house have been highly entertained by the Sardar Sahib's proposal. I would request him that before he opposes a thing, he should keep this fact in view that there should be no opposition just for the sake of opposition. If the criticism is constructive, it is a great blessing for the country and the nation. If the object is not merely disruptive and destructive such criticism is a matter of pride for the country. I have just quoted the couplet of Iqbal the purport of which Mian Sahib has misunderstood and he is moulding his life according to this notion of his. Now I quote another couplet of the same poet for his benefit and request him to keep it in view.

Aql ko tanqid se fursat nahin

Ishq per a'mal ki bunyad rakh.

The pure reason is always engaged in criticising things.

So act according to your constructive urge.

I want to point out to him that here "*ishq*" does not mean "love"; it means positive and constructive action and the struggle to achieve the desired goal. Besides these two gentlemen a few other persons have opposed the proposal. If their speeches are analysed we will find that on the one hand they are in favour of giving the refugees representation in Sind Assembly but on the other hand they say that if the members are co-opted by this Constituent Assembly it would be highly unfair to the State and the Nation and therefore the question of their representation should be left at the discretion of the Sind Assembly. At the same time they observe that these representatives should be such men who may criticise the Government, resist any unfair decision taken by it and walk out of the chamber, if need arises. I am at a loss to understand how any fair-minded man can make such mutually contradictory statements. I ask which House other than this one can appoint such Members to the Sind Assembly who are not dependent on the Sind Government and can boldly criticise it. As a matter of fact this objection could be raised only if the question of representation was left to the discretion of the Sind Assembly. But this cannot hold good in case of this House because there is no government here. Everybody here is merely a Member of the Constituent Assembly. So the members elected by this House would, irrespective of the mode of election, be men who will truly represent the refugees in the Sind Assembly.

Sir, before concluding my speech I want to draw your attention to a word which has been repeatedly used here. The word democracy is being very frequently used here since day before yesterday. I do not want to discuss the meaning of democracy and the technicalities thereof as the Honourable Members of this House are perfectly aware of them. But I would ask those who have made the word "democracy" a plaything to try to learn at least its elementary principles. It is the basic principle of democracy that when a proposal is moved in a House every Member of the House has the right to oppose it, but when it has been passed by the House, it is enforced on behalf of the whole House and those who have opposed it are as much responsible for its proper enforcement as its supporters. No doubt an alternative course is open to the Opposition that is to resign their membership of the House. But if they do not do so, it will mean that they have submitted to the majority decision. When a problem has once been decided by the House and Members of the Opposition do not resign their membership of the House, it is against the principles of democracy to oppose it again. To go on opposing the majority decision without resigning the membership of the Assembly cannot be called a straightforward policy. It is unfair to tell only half of one's mind and it is inconsistent with democratic principles. Sir, with these words I support the proposal under discussion. (*Applause.*)

Mr. Nur Ahmed (East Bengal : Muslim) : Sir, I rise to....

Mr. President : Mr. Nur Ahmed, please be very brief.

Mr. Nur Ahmed : I will be very brief, Sir.

Sir, I rise to support the motion before the House. In connection with this motion very important questions have been raised in this House : the question of the dignity and prestige of this august Assembly ; the question of democracy ; the question of interfering with the affairs of a subordinate legislature by this august body.

Sir, there are no two opinions in this House that the people should be allowed to elect all their representatives by their own vote. Again, there are no two opinions that this august Assembly should be very careful about its dignity and prestige and it should not do anything which can be interpreted or construed as derogatory to this august body. But, Sir, after all the question is : how to give representation to those refugees who have been rehabilitated in various parts of Sind. There is no electorate for them. They are not even enrolled as voters. There is no constituency for them. In the meantime the Sind Assembly is passing legislation which affect their daily life and they have no representation in that Assembly.

Sir, in the circumstances, what is the best method of giving them representation ? The mover of this Bill, my honourable friend, Dr. Mahmud Husain, has admitted that had there not been abnormal conditions the method suggested in the Bill would have been undemocratic. But there are abnormal circumstances, and abnormal circumstances require abnormal and extraordinary remedy.

Sir, now the question is practically confined to the fact as to which is the more competent body and more impartial body to co-opt representatives for these refugees.

Sir, if all these circumstances were calmly and dispassionately considered then no reasonable man would have objected to this Assembly being the best platform from which these representatives should be nominated or co-opted. This Assembly is in a position to judge who should be the representatives of those refugees who have been settled in Sind. Taking that in view, I think this body is not doing anything undemocratic if it nominates or co-opts some members for Sind Assembly.

Sir, the right of this Assembly to co-opt seven members for Sind Assembly has been questioned. I respectfully submit that this august Assembly has got a right of framing constitution for Sind and that constitution for the Sind Assembly will be binding on Sind. If it is so and if the Assembly is to determine the form of constitution for Sind, why has it not got the right to elect or co-opt for the time being seven members for the Sind Assembly ? I fail to understand the logic of this argument. Sir, under abnormal circumstances, there is no other course open to this Assembly but to give representation to a vast number of Muhajrin who have been settled in Sind. Is it not the duty of this Assembly to see that all the people, whatever their status in society may be, should be represented in the Legislature, whether Central or Provincial ? It is directly the duty of this august Assembly to do so. I do not think that any reasonable man can object to this. Had it been an election or nomination or co-option under normal circumstances I would have objected to it and I would have been the last person to support such a measure. Sir, considering all the pros and cons of the present circumstances, I will support this Bill for consideration .

Dr. Mahmud Husain : Sir, I am very glad that this Bill, which has been placed before this House, has been subjected to a very close examination. A number of speeches have been made on it and all its various aspects have been carefully examined and scrutinized by different members. If anything, I am now more certain of the correctness of the principle incorporated in this Bill.

Sir, after hearing various criticisms, I shall take the critics one by one and say a few words about the criticisms which have been levelled against this Bill. Sardar Shaukat Hyat Khan in his speech raised certain expectations in my mind when he said that there were numerous methods by which this constitution could have been made and appropriate decision might have been arrived at. But that was only for a moment because all that came out of this expectation was a ludicrous suggestion that all the various members belonging to different provinces, who had represented their constituencies either in U. P. or Bihar or Bombay or Madras or wherever they were, should be made members of the Sind Legislative Assembly. Apart from the fact that it would not be appropriate in the circumstances, in which we are, it is absolutely impracticable. To Sind, people have come from different provinces and not *en bloc* from any province and, in fact, the largest number of people have come from areas where there were no legislative assemblies at all, namely, Central India and Rajputana States. The result of the acceptance of Sardar Shaukat Hyat's proposal would be that a large number of refugees would not find representation in the Sind Legislative Assembly. Moreover it would be impossible to allot seats to those people who have come and who were members in other places because of their large numbers and because they represented such different places and constituencies.

Mr. Chakraverty spoke of this measure and described it as most objectionable because he felt it was an interference in the affairs of the Province of Sind. I do not know really what he meant by interference in the affairs of Sind. I would only remind him that the change of constitution, as it stands today, is not the business of any Provincial Assembly including the Sind Assembly. Only this House can change the constitution. An important change is being proposed and the only place where it can be done is this House. The Sind Assembly, even if it had chosen to do it, could not have done it, it could not have given representation, it could not have created new constituencies and it could not have brought in the refugees into the Assembly of Sind even with the best of intentions.

It was also pointed out by him that there was no guarantee that the representatives of the refugees would find seats in the Sind Legislative Assembly. Here I may say, this House will exercise this right with that sense of responsibility which is expected of it—and at least I have a high opinion of this sense of responsibility of this House, whatever Mr. Chakraverty's opinion may be—I think this House will take the right decision and will appoint only those people who in its judgment are the right representatives of the refugees.

It has also been suggested by Mr. Chakraverty that if in the Punjab, steps have been taken to form new constituencies and hold fresh elections, why not in Sind. Here I would only remind him that between the dissolution of the Punjab Legislative Assembly and the proposed elections to be held sometime in November or December, nearly two years would have elapsed. Does he suggest that we should start on that presumption that for the next two years after which in any case the Sind Legislative Assembly would be dissolved, we should do nothing about giving the representation to the Muhajrin of Sind? He also made the astounding claim that this measure would injure the cause of the solidarity of Pakistan. I must describe it as an astounding statement. It is not this measure which would, in any way, injure the cause of solidarity. But if we do not give representation to a substantial portion of the population of a province, who have lost their all and who have no voice in the local Assembly, it may cause disruption. It is the rejection of this Bill which would cause trouble and not the acceptance of this principle.

Coming to Mian Sahib, I need hardly tell this House that whenever he gets up to speak he gives expression to certain fixed ideas; particularly when he hears some words somewhere like the "Government" or "Safety". Even should he hear "safety matches", he would jump up in his seat and say something nasty

[Dr. Mahmud Husain]

about somebody else. He mentioned in a short speech of his the word "Government" 73 times. I do not know how he managed to utter this word so many times within a few minutes in spite of the fact that he was reminded by the Chair that this measure was not a Government measure and that Government did not sit in this House as Government. But Mian Sahib somehow feels things which do not exist and apprehends dangers which similarly do not exist. He has grown into the habit of criticising everything that comes from anybody who is associated with the Government in some way or the other. I think this House will forgive him for this fault because it has become his habit to criticise the Government. He forgets that circumstances have now changed and there is a different kind of Government now in this country. That being the position, I think he is pardonable and excusable. The whole thing has become a part of his character. It is now in his blood to oppose the Government and we should really pardon him and we should not take him very seriously. In any case, I can assure him that he never annoys me. If anything, I am only amused by his remarks in these debates.

Now, what is it that the Mian Sahib wants? First of all, he surprised me by his suggestion: "Why should this Assembly elect these men and why not the Sind Assembly?" I was wondering whether the Mian Sahib was absent-minded when he made these remarks. Had he not been telling all sorts of things about the Sind Assembly? Had he not gone out of his way and criticised those who sit in that House? How was it that today he was championing the cause in this House of the Sind Assembly? But, no, that was not to be. Shortly after this, he looked towards Mr. Khuhro and he was reminded that he was not doing the right thing and he at once changed his attitude. He said: "Sind Assembly is also rotten; do not give this power to Sind Assembly either. Have new elections, and if you cannot have new elections, then do not give representation to these people." Now, I submit that, in spite of the great confusion which is always present in Mian Sahib's speeches, there is a method in his confusion. One should not think that his is all confused thinking. His main object is: have an election, because he knows that it cannot be done. He is insisting on elections because he knows that they cannot be held. The result of accepting his proposal will be that there will be no elections and the further result of it will be that there will be no representation of these Muhajrin. Then what will follow? There will be discontent among these people, and that is exactly what he is aiming at. It is discontent among the people which suits him best and anything which will cause discontent among the people, he will welcome. By some round about way, by criticising the Government, by bringing in the Safety Act, by criticising the administration of the Princes or by criticising the Sind Assembly, he always comes to that central point of his. So, his speeches are very well thought out speeches and there is no confusion in them at all. His aim is to do something which will be mischievous; do something which will create trouble for the Government. Now, that was the way in which Mian Sahib spoke on that day. The only method which he recommended was election and he knows it as much as anybody else that elections cannot be held in a day. There is long process to be gone through before you can hold elections. We have seen what has happened in the Punjab. It will be nearly two years after the dissolution that the elections will take place and he wants that the same thing should happen here. Then, there were other criticisms of his which were directed against the Government, which were also full of malice. He chose to say that there were "other methods" which the people will adopt apparently under his direction against the Government. I think I should dismiss them with the contempt that they deserve. If Mian Sahib had the option to destroy this Government, I am sure he would not hesitate to do so. If he is not creating trouble for Government it is only because he cannot create it.

Prof. Raj Kumar Chakraverty (East Bengal : General) : There is the Public Safety Act !

Dr. Mahmud Husain : Then, Sir, Sardar Asadullah Jan Khan, for whose constructive suggestions I have very great regard, made a speech the central idea of which was that this whole process is opposed to the idea of parliamentary democracy. I agree with him. In ideal circumstances I would have been at one with him and I would have said : Follow the normal procedure ; do what is done in selecting or electing the representatives. But the trouble is that that procedure cannot be followed in the present circumstances. Sardar Sahib then spoke about the fear of absolutism being established in Pakistan and also of dictatorship. I may remind him that parliamentary democracy to which he attaches great importance is not possible without party organisations and it is a well known fact that today if there is one party in this country which represents the interests of the Muslim people, it is the Muslim League and he need have no misgivings that this House will go against the verdict of the Muslim League. Even if elections are held, the tickets will ultimately be issued by that very organisation and if the Muslim League does represent these people, which I believe, it does, then it is as good as election. It is something which is normal in parliamentary life and in parliamentary democracies of which he has spoken. So, even if this method may be somewhat different due to peculiar circumstances and because other methods are not available to us at the moment, the net result of this method will exactly be the same as if the normal procedure had been followed and elections had been held and the Muslim League Party had proposed these candidates and they would have been returned as members.

I do not know how the Leader of the Opposition, Mr. Sris Chandra Chattopadhyaya, thought that by passing this measure we would be lowering the prestige of the House. I must say that the idea is very mysterious to me. I do not know how we shall be lowering the prestige of this House by doing what is right and by giving representation to nearly one-fifth of the Muslim population of a certain province which has gone unrepresented for so long. How on earth that would affect the prestige of this House, I have not been able to understand.

In the end, I would only refer to one of the points which Mian Sahib's return to the House has reminded me of, namely, that electoral arrangements and delimitation of constituencies and all that should have been done two and a half years ago. According to him, if it had been done, then today we would not have been in the position in which we are.

Now Mian Sahib, if he had read at least his own newspapers—and I am sure he does not publish them only to mislead others—then he would have learnt that during the last 12 to 14 months nearly four lakhs of refugees have come into Sind and if constituencies had been created and electoral rolls had been prepared 2½ years ago then at least these people who are there would not have got representation ; somebody else would have got representation. That is all that I have to say.

Mr. President : The question is :

“ That the Bill further to amend the Government of India Act, 1935 (Amendment of the Fifth Schedule) be taken into consideration.”

The motion was adopted.

Prof. Raj Kumar Chakraverty : Sir, I beg to move :

“ That in clause 2 (a) of the Bill, for the words ‘a motion of the Constituent Assembly’ the following be substituted :—

‘ election by the Members of the Sind Provincial Legislative Assembly according to the principal of proportional representation by means of the single transferable vote.’ ”

Mr. President : Mr. Chakraverty ! your two amendments are somewhat alike. If you intend to move your next amendment also it will be better if you move that also and make one speech.

Prof. Raj Kumar Chakraverty : No, Sir, there is a difference. If this is rejected, then I will move that.

Mr. President : All right.

Prof. Raj Kumar Chakraverty : So I confine myself to the first amendment which I have tabled.

Sir, I would have been happy if the honourable the mover of the Bill could accept my suggestion that the people of Sind should elect these seven representatives to the Sind Legislative Assembly but unfortunately the House has rejected it. Therefore, Sir, I can fall upon the next best course possible, namely that if the people of Sind cannot elect their representatives, let the members of the Sind Legislative Assembly elect these seven representatives. I consider this to be the next best course under the circumstances. If the people are not allowed to exercise their democratic rights, I submit, Sir, that there should be at least some show of democracy, or the nearest approach to democracy, and this can be achieved if the Members of the Sind Legislative Assembly, who are all men of Sind—they hail from Sind—are allowed to elect their representatives of Sind.

Sir, there is one difficulty which I want to point out with regard to the election of these members by this Constituent Assembly. We are altogether 78 members here and barring the five members who come from Sind the remaining 73 Members belong to the different Provinces of Pakistan. It should be admitted that these 73 Members of the different Provinces have very little local knowledge at any rate, it is true that they have not enough knowledge about the people of Sind. Therefore, it is not fair—it is not proper ; it does not stand to reason—that these 73 gentlemen representing the various Provinces of Pakistan—I say this with all deference to them—it is not fair—that they should be allowed to vote for persons whom they are not expected to know. Therefore, Sir, I suggest that these seven representatives should be elected to the Sind Legislative Assembly by the Sind Members of the Assembly because they are more competent to vote for the true representatives than this House whose local knowledge is very meagre under the circumstances.

Mr. President : Amendment moved :

“ That in clause 2 (a) of the Bill, for the words ‘ a motion of the Constituent Assembly ’ the following be substituted :—

‘ election by the Members of the Sind Provincial Legislative Assembly according to the principle of proportional representation by means of the single transferable vote’, ”

Dr. Mahmud Husain : Sir, I am sorry to oppose this amendment. I do not think I need go into details. I have already described the reasons why this method is not as suitable as the method which has been suggested and I do not think I should waste the time of the House by repeating those arguments.

Mr. President : The question is :

“ That in clause 2 (a) of the Bill, for the words ‘ a motion of the Constituent Assembly ’ the following be substituted :—

‘ election by the Members of the Sind Provincial Legislative Assembly according to the principle of proportional representation by means of the single transferable vote’, ”

The amendment was negatived.

Prof. Raj Kumar Chakraverty : Sir, I beg to move—

“ That in clause 2 (a) of the Bill, for the words ‘a motion of the Constituent Assembly’ the following be substituted :—

‘ election by the Constituent Assembly according to the principle of proportional representation by means of the single transferable vote’.”.

Sir, here my difference with the honourable the mover is that he wants to have this election by the majority vote of this House, whereas I suggest that this election should be by the principle of proportional representation by means of the single transferable vote and my reason, Sir, is this. So far as the elections to the various Committees of this House are concerned, or any sort of election by this House is concerned, the written law is there that it should be all by the single transferable vote. Even where there is no written law about the election of anything by this House there has grown a convention—a custom—that the election should be by the single transferable vote. I submit, Sir, that this is a very healthy convention that this House has allowed to grow. It was pointed out, if I remember aright, by the honourable mover that this sort of voting by the single transferable vote is rather difficult. Sir, modern democracy has invented various kinds of voting and modern democracy, with all its imperfections, has accepted that this sort of voting is the best that one can conceive of. There should be no difficulty in having this sort of voting here, because voters here are all educated persons, cultured persons, and there will be no difficulty whatsoever in having this election by the single transferable vote, to which we are all accustomed.

Lastly, Sir, the election is to be held by this House, which is a deliberative body, to the Sind Legislative Assembly which is also another deliberative body. It is fair, it is proper—and everybody knows it—that wherever there is an election to a deliberative body, the different shades of opinion should be represented. That is the idea of democratic elections and if the different shades of opinion are to be represented, certainly there can be no better way of election than by the single transferable vote. Had it been an election to executive body, one might say that we require the people of one way of thinking and therefore the majority vote would do, but this is an election by a deliberative body to another deliberative body, where different shades of opinion should be represented and, therefore, Sir, the voting by the method of proportional representation by means of the single transferable vote is the best.

With these words, Sir, I move this amendment.

Mr. President : Amendment moved :

“ That in clause 2 (a) of the Bill, for the words ‘a motion of the Constituent Assembly’ the following be substituted :—

‘ election by the Constituent Assembly according to the principle of proportional representation by means of the single transferable vote’.”

Dr. Mahmud Husain : I beg to oppose this amendment. The reason which I gave at an earlier stage also is that proportional representation is a method of election which is employed to give representation to minorities. This is a fact well known to students of Political Science. If there were various interests—different communities and different sets of people—to be represented, surely the proportional representation by the single transferable vote would have been an ideal method, but my submission is, Sir, that here the set of people who are going to be represented are one and single—their problems are the same—and therefore it would not be right to try the method of proportional representation and create minorities and interests where there are none,

Mr. President : The question is :

“ That in clause 2 (a) of the Bill for the words ‘ a motion of the Constituent Assembly ’ the following be substituted :—

‘ election by the Constituent Assembly according to the principle of proportional representation by means of the single transferable vote.’ ”

The motion was negatived.

Mr. M. A. Khuhro (Sind : Muslim): Sir, for amendment No. 7, I want to change slightly the words to make the amendment clear and the amendment that I want to move in place of No. 7, with your permission, reads as follows :

“ That at the end of clause 2 (a) of the Bill, the following proviso be added :—

‘ Provided that the persons selected to fill these seven seats shall be only from among those who have been residing within the present limits of the Province of Sind since not later than first October, 1949 ’.”

The object in moving this amendment is that those Muslims who have been coming from the Indian Dominion and residing and settling in the Province of Sind should only be given representation. The idea underlying this amendment is clearly this that we want to guard against those people getting representation who have either come not even six months ago but recently or those that came even before 1st October, 1949, that means about six months ago. But subsequently they may have left the Province and settled in some other Provinces either in Pakistan or gone back to the Indian Dominion. The idea as the mover of this Bill has explained already, is to give representation to six or seven lakhs of the population that have actually come within the Province of Sind, with the object of settling down here for all time to come, and want to settle here as other Sindhi population already is residing. They have economic interest, and they have social interest. Therefore they should also be given political representation in the Provincial Assembly and it is only fair that we should lay down definitely in this proviso that such persons will be given representation who have definite interest here and who have settled in the Province of Sind for all time to come like the Sindhi population that is already living in the province and they represent the seven lakhs of people, roughly, who have come to the Province of Sind. For that reason I hope my amendment will be acceptable to the House.

Mr. President : Amendment moved :

“ That at the end of clause 2 (a) of the Bill, the following proviso be added :—

‘ Provided that the persons selected to fill these seven seats shall be only from among those who have been residing within the present limits of the Province of Sind since not later than first October, 1949 ’.”

Mr. Ahmed E. H. Jaffer (Sind : Muslim): Sir, I rise to support his amendment moved by my honourable friend, Mr. Khuhro, today. This day will remain a red letter day in the history of the poor refugees of Sind. As a result of the passage of this Bill they will get representation in the Sind Legislative Assembly by having seven representatives into the Lower House. For this, Sir, the refugees will ever remain grateful to our beloved Prime Minister. I must say that it is entirely due to his efforts that they will be getting this representation. I am not disclosing any secret when I say that the Honourable the Prime Minister is very keen that these poor refugees should find their seats as early as possible in the Sind Legislative Assembly. It is entirely due to his interest in the refugees and his desire for the welfare and well-being of the refugees that they are getting this representation, and as a representative of the refugees in this House I wish to convey the gratitude of refugees to our beloved Prime Minister.

Sir, there is one thing which I want to say on this amendment. Mr. Khuhro has very rightly pointed out that it is his desire and it should be the desire of this House, that only those who have residential qualification in Sind should be elected

to the Sind Legislative Assembly. But there is one thing, Sir, which has been engaging my attention and the attention of some of those who have migrated from India to Pakistan especially those who have represented Muslims in the various Provincial Assemblies in India in U. P., C.P., Madras, Bombay and other Provinces and I earnestly hope that when the question of election of these representatives arises this fact will not be overlooked that those who have settled down in Karachi before the separation of Karachi from Sind will also be considered for those seats and they will also be elected. Sir, I support this motion.

Shri Sris Chandra Chattopadhyaya : Is Karachi within Sind ?

Mr. President : The question is :

“ That at the end of clause 2 (a) of the Bill, the following proviso be added :—

‘ Provided that the persons selected to fill these seven seats shall be only from among those who have been residing within the present limits of the Province of Sind since not later than first October, 1949.’ ”

The motion was adopted.

Mr. President : The question is :

“ That clause 2, as amended, stand part of the Bill.”

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Dr. Mahmud Husain: Sir, I move :

“ That the Bill, as amended, be passed.”

Mr. President : The question is :

“ That the Bill, as amended be passed.”

The motion was adopted.

THE GOVERNMENT OF INDIA (SIXTH AMENDMENT) BILL

The Honourable Mr. Liaquat Ali Khan : (East Bengal : Muslim) : Sir, I beg leave to introduce the Bill further to amend the Government of India Act, 1935 (Amendment of Section 91 and the Fifth Schedule).

Mr. President : The question is :

“ That leave be granted to introduce the Bill further to amend the Government of India Act, 1935, (Amendment of Section 91 and the Fifth Schedule). ”

The motion was adopted.

The Honourable Mr. Liaquat Ali Khan : Sir, I beg to move :

“ That the Bill further to amend the Government of India Act, 1935 (Amendment of Section 91 and the Fifth Schedule) be taken into consideration.”

Sir, the object of this measure is stated in the Statement of Objects and Reasons attached to the Bill and it is a very simple measure and I do not think that I need make a very long speech. The people of the tribal areas in Dera Ghazi Khan have made a unanimous request to the Government to make that tribal area part of Dera Ghazi Khan and thus a part of the Punjab. The object of amending section 91 and the Schedule is to give one seat in the Provincial Legislature of Punjab to the people from this area. Their number entitles them to one seat and it is intended to make the necessary amendment. The second part of the Bill, section 2, is to add at the end of section 91, the words : “ or such areas as may henceforth be declared by the Governor-General to be excluded or partially excluded areas.”

[The Honourable Mr. Liaquat Ali Khan]

It would give an opportunity to the Governor-General to declare any other areas as excluded areas because of the fact that there are certain areas in Pakistan which are not so well advanced as the other parts of Pakistan, and it will not be possible immediately to introduce all the laws applying in Pakistan to such areas. That is the object of this amendment.

Mr. President : The question is :

“ That the Bill further to amend the Government of India Act, 1935 (Amendment of section 91 and the Fifth Schedule) be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill

Clause 3 was added to the Bill

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Mr. Liaquat Ali Khan : Sir, I move :

“ That the Bill be passed. ”

Mr. President : The question is :

“ That the Bill be passed. ”

The motion was adopted.

AMENDMENT OF RULE 64 OF THE CONSTITUENT ASSEMBLY RULES

Mr. Serajul Islam (East Bengal Muslim) : Sir, I beg to move :

“ That in sub-rule (1) of rule 64 of the Constituent Assembly Rules, for the words ‘ the duration of the Assembly ’ the words ‘ each financial Year ’ be substituted. ”

Sir, this amendment is a very simple one and needs no elucidation. I should only like to say that under the present rule the Finance Committee, that was constituted about two years ago, will exist as long as this Constituent Assembly will exist. Sir, this seems to be unfair and I have brought this amendment before the House because everything financial should be overhauled every year. I hope the amendment will be accepted.

Mr. President : Motion moved :

“ That in sub-rule (1) of rule 64 of ‘ the Constituent Assembly Rules, for the words ‘ the duration of the Assembly ’ the words ‘ each financial year ’ be substituted. ”

Mr. Nur Ahmed (East Bengal : Muslim) : Sir, I support the motion under consideration. I think the Finance Standing Committee everywhere is constituted for each financial year, but here I find that it will last up to the end of this Assembly. Sir, it is desirable and it is also in the fitness of things that it should be made an annual Finance Committee, as in the case of other similar Standing Committees for Finance. I think there is the necessity for the proposed amendment.

Mr. President : The question is :

“ That in sub-rule (1) of rule 64 of the Constituent Assembly Rules, for the words ‘ the duration of the Assembly ’ the words ‘ each financial year ’ be substituted. ”

The motion was adopted.

Mr. President : The House stands adjourned *sine die*.

The House then adjourned *sine die*.